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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/813,974	03/22/2001	Michael McLaughlin	Q-63711	6049

7590 09/27/2004
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037-3213

EXAMINER

DEPPE, BETSY LEE

ART UNIT PAPER NUMBER

2637

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/813,974

Applicant(s)

MCLAUGHLIN ET AL.

Examiner

Betsy L. Deppe

Art Unit

2637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 1-23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to because the elements in Figure 1 should be labeled so that one viewing the drawings may understand the subject matter of the claimed invention without referring to the detailed description. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of

any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because it contains the form and legal phraseology often used in patent claims (see "comprises" on line 2). Furthermore, the last sentence on the page should be deleted since the abstract is limited to a single paragraph. Correction is required. See MPEP § 608.01(b).

Claim Objections

5. The claims are objected to because of the following informalities:

in claim 1, line 2, "the effect" should be "an effect";

in claim 4, line 2, a comma should be inserted after "digital modem";

in claim 14, line 2, "the effect" should be "an effect";

in claim 17, line 2, a comma should be inserted after "digital modem";

in claim 18, line 2, "17" should be "16" in order to be consistent with the described invention. According to page 8, lines 3-6, the limitations recited in claims 17 and 18, respectively, are alternatives. (See also claims 4 and 5); and

in claim 23, line 1, "the" should be "an."

Appropriate correction is required.

Allowable Subject Matter

6. Claims 1-23 are allowable.
7. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).
8. The following is a statement of reasons for the indication of allowable subject matter: prior art of record does not teach or suggests in combination a method or apparatus for transmitting data from an analogue modem to a digital modem comprised of computing mid-points between adjacent codec levels and computing constellation points so that the mid-points between adjacent computed constellation points coincide with the respective computed mid-points between adjacent codec levels.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references teach methods and apparatus for calculating/determining signal constellations: Cai et al. (US Patent No. 5,831,561), Waldron et al. (US Patent No. 6,009,121), Olafsson (US Patent No. 6,163,570), Eyuboglu et al. (US Patent No. 6,173,015 B1), Eyuboglu et al. (US Patent No. 6,198,776 B1), Waldron et al. (US Patent No. 6,577,683), Mehrabanzad et al. (US Patent No. 6,594,306 B1), Chouly et al. (US Patent No. 6,611,554 B1), and Davis et al. (US Patent No. 6,661,847 B1).

10. This application is in condition for allowance except for the following formal matters: objections to the drawings, specification and claims.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betsy L. Deppe whose telephone number is (571) 272-3054. The examiner can normally be reached on Monday, Wednesday and Thursday (8:30-4:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on (571) 272-2988.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450


or faxed to:

(703) 872-9306

Hand-delivered responses should be delivered to:

220 South 20th Street
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Betsy L. Deppe
Primary Examiner
Art Unit 2637